IN THE DRAWINGS:

Please amend FIG. 2, as indicated on the attached marked-up copy of original FIG. 2. No new matter is introduced.

REMARKS

This Amendment After Final Rejection is submitted in response to the outstanding final Office Action, dated November 16, 2005. Claims 24-27 were added in the Amendment and Response to Office Action dated January 4, 2005. Claim 14 was

5   cancelled and claim 28 was added in the Amendment and Response to Office Action dated April 15, 2005. Claims 1-13 and 15-28 are presently pending in the above-identified patent application.

This amendment is submitted pursuant to 37 CFR §1.116 and should be entered. The Amendment corrects a typographical error in the drawings and incorporates

10   into the specification a statement from a patent application that is incorporated into the present disclosure by reference. This amendment places all of the pending claims, i.e., claims 1-13 and 15-28, in a form that is believed allowable, and, in any event, in a better form for appeal. It is believed that examination of the pending claims, which are consistent with the previous record herein, will not place any substantial burden on the

15   Examiner.

In the final Office Action, the Examiner rejected claims 21-23 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner rejected claims 1-13 and 15-27 under 35 U.S.C. §103(a) as being unpatentable over Carter et al. (United States Patent Number 6,026,474) and Humphrey

20   (United States Patent Application Publication Number 2002/0129116), and rejected claims 1-13 and 15-28 under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al. (United States Patent Number 6,886,178).

Drawings

FIG. 2 has been amended to correct a typographical error. In particular,

25   block 260 has been changed from "User Profiler 260" to "User Profile 260" to be consistent with the specification and FIG. 3.

Specification

The specification has been amended to incorporate a statement from a patent application that is incorporated by reference into the present disclosure. Support

30   for this amendment can be found on page 9 of United States Patent Application Serial Number 09/929,555, filed August 14, 2001, entitled "Method and Apparatus for

Broadcast Delivery of Content to a Client-Side Cache Based on User Preferences," assigned to the assignee of the present invention and incorporated by reference in the present disclosure.

Section 101 Rejections

5   Claims 21-23 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. In the Response to Arguments section of the final Office Action, the Examiner asserts that a computer readable medium as defined by Applicant on page 12 of the specification may be a recordable medium or a transmission medium and, as previously indicated, a transmission medium is not a

10   tangible medium.

      Applicants note that the term "tangible" means "having substance or material existence." (See, dictionary.com.) Contrary to the Examiner's assertion, a *transmission medium is a tangible entity, consisting of radio waves, light waves, electronic signals, etc.* Claims 21-23 require a *computer readable medium having*

15   *computer readable code means embodied thereon,* and are therefore limited to *tangible* embodiments.

      Claims 21-23 are therefore directed to statutory subject matter and Applicants respectfully request that the section 101 rejections be withdrawn.

Independent Claims 1, 9, 15, 18-23 and 28

20   Independent claims 1, 9, 15, 18-23, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Humphrey and under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al. Regarding claim 1, the Examiner asserts that Carter discloses receiving content broadcast to a client (col. 27, lines 65-66) and storing said received content in said client-side cache (col. 28, lines 7-

25   10). In the Response to Arguments section of the final Office Action, the Examiner asserts that Carter clearly discloses storing content based on a user profile (Carter's system utilizes a migration controller that manages the storage of content based on, among other items, user data access patterns (col. 14, lines 40-46)). The Examiner further asserts that Mao also stores content based on a user profile (Mao only stores the

30   most recently accessed web pages (col. 8, lines 61-65, and col. 9, lines 3-7)).

Applicants note that the present specification, as amended, teaches that, "for example, the user profile 260 might provide a *list of the users most popular sites*." (Page 6, line 10, of the amended specification; emphasis added.) User profile 260 is a *data entity* (see, FIGS. 2 and 3). Neither Carter, Humphrey, nor Mao, however, address

5 the issue of storing content *based on a user profile*, as defined in the present disclosure. Humphrey, for example, is directed to broadcasting information, for example, "when the rate of requests for information exceeds a predetermined number over a predetermined time." (Paragraph 52) Carter is directed to a shared client-side Web cache, wherein the Web cache is shared by a particular group of users. (Col. 2, lines 38-40.) In the text

10 cited by the Examiner, Carter teaches that "the migration controller can determine and respond to data access patterns, resource demands or any other criteria or heuristic suitable for practice with the invention. Accordingly, the migration controller can balance the loads on the network, and move data to nodes from which it is commonly accessed." (Col. 14, lines 40-46.) Mao is directed to formatting Internet HTML Web page data to fit

15 within a standard MPEG-2 data packet structure, and multiplexing it along with other MPEG-2 digital video signals for transport within a multiple channel digital video system (see, Abstract). In the text cited by the Examiner, Mao teaches that "between the two extremes of no storage at one end, and 100% local storage of the rotating carousel at the other end, there is a variety of partial storage options. One option is to use a high-speed

20 cache to store a number of the most recently accessed Web pages." (Col. 8, lines 61-65.) Neither the data access patterns taught by Carter nor the most recently accessed Web pages taught by Mao are user profiles, as defined in the present specification and as understood by a person of ordinary skill in the art. Independent claims 1, 9, 15, 18-23, and 28 require *storing content based on a user profile.*

25 Thus, Carter et al., Humphrey, and Mao et al., alone or in combination, do not disclose or suggest storing content based on a user profile, as required by independent claims 1, 9, 15, 18-23, and 28.

Dependent Claims 2-8, 10-13, 16-17 and 24-27

Dependent claims 2-8, 10-13, 16-17, and 24-27 were rejected under 35

30 U.S.C. §103(a) as being unpatentable over Carter et al. and Humphrey and under 35 U.S.C. §103(a) as being unpatentable over Carter et al. and Mao et al.

Claims 2-8 and 24-25, claims 10-13 and 26-27, and claims 16-17 are dependent on claims 1, 9, and 15, respectively, and are therefore patentably distinguished over Carter et al., Humphrey, and Mao et al. (alone or in any combination) because of their dependency from independent claims 1, 9, and 15 for the reasons set forth above, as

5   well as other elements these claims add in combination to their base claim.

All of the pending claims, i.e., claims 1-13 and 15-28, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to

10   contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,

15   Date: January 12, 2006

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Annotated Sheet Showing Changes

FIG. 2